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Union Calendar No. 152

97TH CONGRESS
1ST SESSION

H. R. 4

[Report No. 97-221]

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1981

Mr. BOLAND (for himself, Mr. MAZZOLI, and Mr. ROBINSON) introduced the following bill; which was referred to the Permanent Select Committee on Intelligence

SEPTEMBER 10, 1981

Additional sponsors: Mr. WRIGHT, Mr. LEBOUTILLIER, Mr. MCCLORY, Mr. HYDE, Mr. SAWYER, Mr. ASHBROOK, Mr. MOORHEAD, Mr. LUNGREN, Mr. KINDNESS, Mr. SENSENBRENNER, Mr. FISH, Mr. BUTLER, Mr. MICHEL, Mr. APPLGATE, Mr. COUTER, Mr. SOLOMON, Mr. MARTIN of New York, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. BIAGGI, Mr. DUNCAN, Mr. ERLBORN, Mr. LEWIS, Mrs. HOLT, Mr. MCKINNEY, Mr. WILSON, Mr. COLLINS of Texas, Mr. FRENZEL, Mr. BOWEN, Mr. BAFALIS, Mr. FIELDS, Mr. MILLER of Ohio, Mr. DE LUGO, Mr. STANGELAND, Mr. HENDON, Mr. STUMP, Mr. BLILEY, Mr. LOWERY of California, Mr. NEAL, Mr. FOUNTAIN, Mr. EVANS of Georgia, Mr. EVANS of Delaware, Mr. WEBER of Minnesota, Mr. PEPPER, Mr. PASHAYAN, Mr. MITCHELL of New York, Mr. DORNAN of California, Mr. YOUNG of Florida, Mr. WHITEHURST, and Mr. SHAW

SEPTEMBER 10, 1981

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 5, 1981]

A BILL

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 *That this Act may be cited as the "Intelligence Identities*
4 *Protection Act".*

5 *SEC. 2. (a) The National Security Act of 1947 is*
6 *amended by adding at the end thereof the following new title:*

7 *"TITLE VI—PROTECTION OF CERTAIN*
8 *NATIONAL SECURITY INFORMATION*

9 *"DISCLOSURE OF IDENTITIES OF CERTAIN UNITED*
10 *STATES UNDERCOVER INTELLIGENCE OFFICERS,*
11 *AGENTS, INFORMANTS, AND SOURCES*

12 *"SEC. 601. (a) Whoever, having or having had author-*
13 *ized access to classified information that identifies a covert*
14 *agent, intentionally discloses any information identifying*
15 *such covert agent to any individual not authorized to receive*
16 *classified information, knowing that the information dis-*
17 *closed so identifies such covert agent and that the United*
18 *States is taking affirmative measures to conceal such covert*
19 *agent's intelligence relationship to the United States, shall be*
20 *fined not more than \$50,000 or imprisoned not more than ten*
21 *years, or both.*

1 “(b) Whoever, as a result of having authorized access to
2 classified information, learns the identity of a covert agent
3 and intentionally discloses any information identifying such
4 covert agent to any individual not authorized to receive clas-
5 sified information, knowing that the information disclosed so
6 identifies such covert agent and that the United States is
7 taking affirmative measures to conceal such covert agent’s
8 intelligence relationship to the United States, shall be fined
9 not more than \$25,000 or imprisoned not more than five
10 years, or both.

11 “(c) Whoever, in the course of an effort to identify and
12 expose covert agents with the intent to impair or impede the
13 foreign intelligence activities of the United States by the fact
14 of such identification or exposure, discloses, to any individu-
15 al not authorized to receive classified information, any infor-
16 mation that identifies a covert agent knowing that the infor-
17 mation disclosed so identifies such covert agent and that the
18 United States is taking affirmative measures to conceal such
19 covert agent’s intelligence relationship to the United States,
20 shall be fined not more than \$15,000 or imprisoned not more
21 than three years, or both.

22 “DEFENSES AND EXCEPTIONS

23 “SEC. 602. (a) It is a defense to a prosecution under
24 section 601 that before the commission of the offense with
25 which the defendant is charged, the United States had pub-

1 *likely acknowledged or revealed the intelligence relationship to*
2 *the United States of the individual the disclosure of whose*
3 *intelligence relationship to the United States is the basis for*
4 *the prosecution.*

5 “(b)(1) *Subject to paragraph (2), no person other than a*
6 *person committing an offense under section 601 shall be sub-*
7 *ject to prosecution under such section by virtue of section 2 or*
8 *4 of title 18, United States Code, or shall be subject to pros-*
9 *ecution for conspiracy to commit an offense under such sec-*
10 *tion.*

11 “(2) *Paragraph (1) shall not apply (A) in the case of a*
12 *person who acted in the course of an effort to identify and*
13 *expose covert agents with the intent to impair or impede the*
14 *foreign intelligence activities of the United States by the fact*
15 *of such identification and exposure, or (B) in the case of a*
16 *person who has authorized access to classified information.*

17 “(c) *It shall not be an offense under section 601 to*
18 *transmit information described in such section directly to the*
19 *Select Committee on Intelligence of the Senate or to the Per-*
20 *manent Select Committee on Intelligence of the House of*
21 *Representatives.*

22 “*PROCEDURES FOR ESTABLISHING COVER FOR*
23 *INTELLIGENCE OFFICERS AND EMPLOYEES*

24 “*SEC. 603. (a) The President shall establish procedures*
25 *to ensure that any individual who is an officer or employee of*

1 *an intelligence agency, or a member of the Armed Forces*
2 *assigned to duty with an intelligence agency, whose identity*
3 *as such an officer, employee, or member is classified informa-*
4 *tion and which the United States takes affirmative measures*
5 *to conceal is afforded all appropriate assistance to ensure that*
6 *the identity of such individual as such an officer, employee,*
7 *or member is effectively concealed. Such procedures shall*
8 *provide that any department or agency designated by the*
9 *President for the purposes of this section shall provide such*
10 *assistance as may be determined by the President to be neces-*
11 *sary in order to establish and effectively maintain the secrecy*
12 *of the identity of such individual as such an officer, employ-*
13 *ee, or member.*

14 *“(b) Procedures established by the President pursuant*
15 *to subsection (a) shall be exempt from any requirement for*
16 *publication or disclosure.*

17 *“EXTRATERRITORIAL JURISDICTION*

18 *“SEC. 604. There is jurisdiction over an offense under*
19 *section 601 committed outside the United States if the indi-*
20 *vidual committing the offense is a citizen of the United*
21 *States or an alien lawfully admitted to the United States for*
22 *permanent residence (as defined in section 101(a)(20) of the*
23 *Immigration and Nationality Act).*

1 “*PROVIDING INFORMATION TO CONGRESS*

2 “*SEC. 605. Nothing in this title shall be construed as*
3 *authority to withhold information from Congress or from a*
4 *committee of either House of Congress.*

5 “*DEFINITIONS*

6 “*SEC. 606. For the purposes of this title:*

7 “(1) *The term ‘classified information’ means in-*
8 *formation or material designated and clearly marked*
9 *or clearly represented, pursuant to the provisions of a*
10 *statute or Executive order (or a regulation or order*
11 *issued pursuant to a statute or Executive order), as re-*
12 *quiring a specific degree of protection against unau-*
13 *thorized disclosure for reasons of national security.*

14 “(2) *The term ‘authorized’, when used with re-*
15 *spect to access to classified information, means having*
16 *authority, right, or permission pursuant to the provi-*
17 *sions of a statute, Executive order, directive of the*
18 *head of any department or agency engaged in foreign*
19 *intelligence or counterintelligence activities, order of a*
20 *United States court, or provisions of any Rule of the*
21 *House of Representatives or resolution of the Senate*
22 *which assigns responsibility within the respective*
23 *House of Congress for the oversight of intelligence ac-*
24 *tivities.*

1 “(3) The term ‘disclose’ means to communicate,
2 provide, impart, transmit, transfer, convey, publish, or
3 otherwise make available.

4 “(4) The term ‘covert agent’ means—

5 “(A) an officer or employee of an intelligence
6 agency, or a member of the Armed Forces as-
7 signed to duty with an intelligence agency—

8 “(i) whose identity as such an officer,
9 employee, or member is classified informa-
10 tion, and

11 “(ii) who is serving outside the United
12 States or has within the last five years
13 served outside the United States;

14 “(B) a United States citizen whose intelli-
15 gence relationship to the United States is classi-
16 fied information and—

17 “(i) who resides and acts outside the
18 United States as an agent of, or informant
19 or source of operational assistance to, an in-
20 telligence agency, or

21 “(ii) who is at the time of the disclosure
22 acting as an agent of, or informant to, the
23 foreign counterintelligence or foreign counter-
24 terrorism components of the Federal Bureau
25 of Investigation; or

1 “(C) an individual, other than a United
2 States citizen, whose past or present intelligence
3 relationship to the United States is classified and
4 who is a present or former agent of, or a present
5 or former informant or source of operational as-
6 sistance to, an intelligence agency.

7 “(5) The term ‘intelligence agency’ means the
8 Central Intelligence Agency, the foreign intelligence
9 components of the Department of Defense, or the for-
10 eign counterintelligence or foreign counterterrorist com-
11 ponents of the Federal Bureau of Investigation.

12 “(6) The term ‘informant’ means any individual
13 who furnishes information to an intelligence agency in
14 the course of a confidential relationship protecting the
15 identity of such individual from public disclosure.

16 “(7) The terms ‘officer’ and ‘employee’ have the
17 meanings given such terms by sections 2104 and 2105,
18 respectively, of title 5, United States Code.

19 “(8) The term ‘Armed Forces’ means the Army,
20 Navy, Air Force, Marine Corps, and Coast Guard.

21 “(9) The term ‘United States’, when used in a
22 geographic sense, means all areas under the territorial
23 sovereignty of the United States and the Trust Terri-
24 tory of the Pacific Islands.”.

1 *(b) The table of contents at the beginning of such Act is*
2 *amended by adding at the end thereof the following:*

*“TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY
INFORMATION*

*“Sec. 601. Disclosure of identities of certain United States undercover intelligence
officers, agents, informants, and sources.*

“Sec. 602. Defenses and exceptions.

*“Sec. 603. Procedures for establishing cover for intelligence officers and employ-
ees.*

“Sec. 604. Extraterritorial jurisdiction.

“Sec. 605. Providing information to Congress.

“Sec. 606. Definitions.”.

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